

AMENDED IN ASSEMBLY MAY 14, 2003

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY APRIL 30, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1164

Introduced by Assembly Member Berg
(Coauthor: Senator Chesbro)

February 21, 2003

An act to amend Section 2892.3 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1164, as amended, Berg. Telecommunications: ~~commercial mobile radio~~ *mobile telephony* services: fraud.

(1)–

Under existing law, the Federal Communications Commission licenses and partially regulates providers of commercial mobile radio service, including providers of cellular radiotelephone service, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR) services. Under existing law, no state or local government may regulate the entry of or the rates charged by any commercial mobile radio service, but is generally not prohibited from regulating the other terms and conditions of commercial mobile radio service.

Existing law empowers the Public Utilities Commission to regulate telecommunications services and rates of telephone corporations, except to the extent regulation of commercial mobile radio service is

preempted by federal law and regulation. Existing law requires the commission to require cellular telephone service providers to report to the commission on activities associated with customer fraud, as specified by the commission, and to provide their subscribers with notice, reviewed by the commission, warning subscribers about problems associated with fraud, and informing them about ways to protect against fraud.

This bill would require the commission to require ~~commercial mobile radio~~ *mobile telephony* service providers, *defined to include cellular radio telephone service, PCS, and SMR*, to report to the commission on activities associated with customer fraud, as specified by the commission, and to provide their subscribers with notice, reviewed by the commission, warning subscribers about problems associated with fraud, and informing them about ways to protect against fraud. ~~Because a violation of an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *Advances in wireless telecommunications technology have*
4 *made statutory references to cellular telephone services*
5 *out-of-date and many wireless telephones that are commonly*
6 *called cellular telephones are actually broadband Personal*
7 *Communications Services (PCS), and digital Specialized Mobile*
8 *Radio (SMR) services.*

9 (b) *PCS and SMR services use different broadbands than*
10 *cellular radiotelephone service, but use the same technology and*
11 *are in direct competition with one another.*



1 (c) *The Federal Communications Commission refers to PCS,*
2 *SMR, and cellular radiotelephone services together, as mobile*
3 *telephony service.*

4 (d) *Statutory references to cellular telephone service should be*
5 *updated to reflect technological advances, so that the application*
6 *of statutes are not given an unintended narrow interpretation that*
7 *excludes wireless telecommunications devices that are commonly*
8 *considered cellular telephones, but which are technically PCS and*
9 *SMR services.*

10 SEC. 2. Section 2892.3 of the Public Utilities Code is
11 amended to read:

12 2892.3. (a) The commission shall require ~~commercial~~
13 ~~mobile radio~~ *mobile telephony* service providers to report to the
14 commission, as specified by the commission, on activities
15 associated with customer fraud.

16 (b) Each report shall include a description of the types of fraud
17 occurring, the amount of revenues that have been uncollectible
18 because of fraud, and the actions undertaken by the service
19 provider to combat fraud.

20 (c) The commission shall require ~~commercial mobile radio~~
21 *mobile telephony* service providers to provide their subscribers
22 with a notice, to be reviewed by the commission, warning
23 subscribers about problems associated with fraud, and informing
24 them about ways to protect against fraud.

25 (d) For purposes of this section, ~~“commercial mobile radio~~
26 ~~service” means “commercial mobile radio service” as defined in~~
27 ~~Section 20.3 of Title 47 of the Code of Federal Regulations.~~

28 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
29 ~~Section 6 of Article XIII B of the California Constitution because~~
30 ~~the only costs that may be incurred by a local agency or school~~
31 ~~district will be incurred because this act creates a new crime or~~
32 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
33 ~~for a crime or infraction, within the meaning of Section 17556 of~~
34 ~~the Government Code, or changes the definition of a crime within~~
35 ~~the meaning of Section 6 of Article XIII B of the California~~
36 ~~Constitution. “mobile telephony services” means commercially~~
37 ~~available interconnected mobile phone services that provide~~
38 ~~access to the public switched telephone network (PSTN) via~~
39 ~~mobile communication devices employing radiowave technology~~
40 ~~to transmit calls, including cellular radiotelephone, broadband~~

1 *Personal Communications Services (PCS), and digital*
2 *Specialized Mobile Radio (SMR). “Mobile telephony services”*
3 *does not include mobile satellite services or mobile data services*
4 *used exclusively for the delivery of nonvoice information to a*
5 *mobile device.*

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